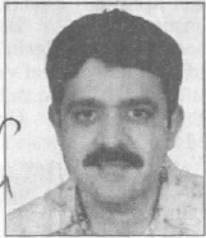


Debating Muslim women and gender justice

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YOGINDER SIKAND

Feminist demands are routinely dismissed by religious conservatives as a 'western' ploy to promote dissension. Articulating their views and concerns through appeal to Islamic scriptural sources themselves gave the women the moral authority that feminists who are seen as alienated from their own societies and traditions lack

A RECENTLY CONCLUDED TWO-DAY conference in New Delhi, organised at the Jamia Hamdard, brought together a number of Muslim women activists from different parts of India, as well as some members of the All-India Muslim Personal Law Board to discuss a range of issues relating to Muslim women.

The theme of the conference was broad, reflecting the organisers' concern that the discussion not remain confined simply to legal issues, but also include matters related to Muslim women's empowerment, education and the plight of women victims of what are euphemistically termed 'communal riots'. That, however, was not to be, as women activists and *ulema* and members of the Board hotly debated the questions of triple *talaq* in one sitting, a model *nikah namah* and polygamy — issues that have been tirelessly talked over for decades now without any consensus seeming to emerge. It was almost as if all the problems of Muslim women owed simply to a patriarchal understanding of Islamic jurisprudence, and that they could somehow be put an end to by resorting to legal reform. As one participant put it in a private conversation, "We don't seem

to be discussing wider issues, such as the lack of empowerment of the community as a whole, or communal violence, which has had particularly serious impact on Muslim women. This focus simply on legal reform, to the exclusion of much else, is precisely what seems to happen in all the many conferences on Muslim women that I have been attending all these years. I don't deny the need for legal reform, but surely it isn't a magic wand that can solve all our problems."

Yet, the discussions on the nitty-gritty of Islamic jurisprudence did serve a valuable purpose, given that the marginalisation of Muslim women does, in part, owe to patriarchal interpretations of family law. Several participants were critical of the Muslim Personal Law Board for dragging its feet on even so simple a matter as drafting a model *nikah namah* which would clearly specify the rights of both spouses.

"For years they have been talking about it, but they've done next to nothing," quipped an irate woman. A member of the Board hurriedly defended his organisation by claiming that the problem owed, in part, to the fact that the Board consisted of representatives of several different schools of Islamic thought and hence it was difficult to reach a consensus on crucial and contentious issues on which there was no unanimity among the different schools themselves.

The matter of triple *talaq* in one sitting, expectedly, was the subject of intense discussion. Many of the participants denounced the practice as obnoxious and demanded an immediate end to it. Sheriffa, a woman from Tamil Nadu, who has earned the wrath of the conservative *ulema* by setting up a women's mosque, related one instance after another of Muslim women being arbitrarily divorced by their husbands through email or over the telephone. The amount of *mehr* agreed to at the time of marriage, she said, is generally a mere pittance. It is not enough even to enable a divorced woman to survive for more than a month or two. She related how, like their Hindu sisters, Muslim women are routinely harassed for dowry. Although dowry is 'un-Islamic', it is a widespread practice among Muslims as well.

"Why is it that the *ulema* and our male leaders conveniently overlook this practice, while doing next to nothing for the plight of divorced women?" she demanded. Several other Muslim women echoed Sheriffa's demand for an end to the practice of triple *talaq* in one sitting. They pointed out that this practice was frowned upon by the Prophet Muhammad (peace be upon him), and that the *ulema* have all along recognised it as a condemnable 'innovation'. They argued that several Muslim countries had done away with the practice, and there was no need for it to remain in force in India.

Islam was a religion of justice, they stressed, and hence, such patent injustice was clearly contradictory to Islamic teachings. Provoked by the debate on the question, a senior member of the Board

recognised that the legal provision was being misused, and announced that the Board had decided to launch a nation-wide programme to create awareness among the Muslims about the 'correct' method of divorce. Yet, he also added, since the *imams* of the four generally accepted schools of Sunni jurisprudence had allowed for the practice of three *talaqs* in one sitting, the Board had no authority to ban it outright.

This declaration was greeted with considerable opposition from many women participants. "If the Board recognises the practice to be a reprehensible innovation, how can it be considered to be part of the *shariah*? How can the *shariah* include or sanctify reprehensible innovations?" an activist from Uttar Pradesh asked. "Much as I respect the *Imams* of the four schools of Sunni jurisprudence, I don't regard them as infallible. They were products of their times, and times have changed, which demands that we reflect on the Quran and Prophetic traditions and develop new ways of understanding our laws," she insisted. Another woman, something of an expert in Islamic law, argued, "The practice of borrowing from other schools of Islamic law on a particular matter if the prescriptions of one's own school are not appropriate is widely recognised. The Hanafi school, which is dominant in India, allows for triple *talaq* in one sitting, but the Shia Jafari school as well as the Sunni Ahl-i Hadith school do not recognise this practice. So why can't the Board adopt the Jafari or Ahl-i Hadith position on this matter and declare triple *talaq* in one sitting void?"

Muslim Personal Law, in the form that it exists in India today, also allows a Muslim man to have up to four wives at a time. This question also provoked considerable discussion, although one scholar, seeking to put the question in a proper perspective, pointed out that the incidence of polygamy (as well as divorce through triple *talaq* in one sitting) was not particularly widespread, contrary to media reports that tend to sensationalise the oppression of Muslim women. In fact, he claimed, citing census figures to back his argument, Muslims were less polygamous than Hindus, although the reformed Hindu law has outlawed polygamy.

Several women insisted that Islam did not sanction unrestrained polygamy, but allowed for it only in exceptional circumstances. They demanded that a clause be inserted in the proposed *nikah namah* clearly specifying the conditions under which a man could be allowed to take a second wife. This was, they said, Islamically legitimate. In fact, the wife could even demand that her *nikah namah* include a clause stating that that her husband would not be allowed to marry another woman while he was married to her.

A particularly interesting aspect of the hair-splitting discussions on Islamic jurisprudence was the fact that numerous women participants sought to

argue their case from within an Islamic paradigm, quoting verse after verse from the Quran and citing traditions attributed to the Prophet (peace be upon him) to argue their case for gender justice.

Feminist demands are routinely dismissed by religious conservatives as 'western' ploy to promote dissension. Articulating their views and concerns through appeal to Islamic scriptural sources themselves gave the women the moral authority that feminists who are seen as alienated from their own societies and traditions lack. "The Quran is an open book, and Islam demands that all believers, men and women, read and understand it. There is no priesthood or church in Islam," explained one woman. "Obviously", added a woman sitting next to me, whispering in hushed tones in the middle of a particularly boring speech, "such a stance constitutes a challenge to the authority of the conservative *ulema*, who presume that they have the last word on every matter. This explains, in part, their reluctance to listen to alternate voices, which are often condemned as anti-Islamic."

Some participants were plainly upset that the conference did not go beyond quibbling over narrowly defined legal questions. "It is a tiresome repetition of the same contentious debates over precisely the same issues that numerous such conferences in the past have focussed on," complained a woman activist. Some were plainly upset by what they saw as the lack of enthusiasm on the part of the Board to listen to their voices. Others, however, advised caution. "The very fact that the Board now has some women members, a few of whom are indeed vocal on women's issues, is itself significant," they said. "Social reform cannot come about all at once, and we have to take everyone, women as well as men, including the *ulema*, with us," they stressed.

Whether or not the conference, or similar meetings as this, would nudge the Board, and the *ulema* as a whole, to seriously consider the demands of Muslim women activists remains a moot point. But the very fact that Muslim women are now increasingly demanding to be heard is significant. Forums such as this conference are providing them new space to interact and network and to relate their stories and struggles. Equally significantly, through efforts such as these gender-sensitive and gender-just interpretations of Islam are beginning to be articulated by Muslim women activists themselves, and a few men as well. In a country where all established religious traditions are thoroughly embedded in a patriarchal ethos this is surely no small step forward.

The writer is post-doctoral fellow at the International Institute for the Study of Islam in the Modern World, Leiden. He also edits a web-magazine called Qalandar, which can be accessed at www.islaminterfaith.org